

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

ORIGINAL

In the Matter of
Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

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MM Docket No. 87-268

Fourth Further Notice of Proposed
Rule Making and Third Notice
of Inquiry

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF WAV TV53
TELEVISION STATIONS

I. POTENTIAL IMPACT OF THE COMMISSION'S ATV PROPOSAL ON THE
COMMISSION'S LONG STANDING POLICY OF FOSTERING PROGRAMMING AND
OWNERSHIP DIVERSITY.

Since the inception of the Communications Act of 1934, it has
been the intent of the Federal Communications Commission (referred
to "FCC" or "Commission") to establish broadcast station ownership
patterns that represents the views of the public as these relate to
the diverse communications industries and sub-industries. One of
the basic underlying considerations of the 1934 Act was the desire
to effectuate policy that discouraged the formation of monopolies
in broadcast and effectuate ownership policies that would as a
result diversify program content.

With this in mind, the Commission has set precedent with its
adoption of various policies and programs which are intended to
minimize whatever negative effect small entities might face in the

WAV TV53, is the owner of one low power television station,
WAV TV53, Indianapolis, IN. WAV TV53 is a low power broadcaster
with an interest in the preservation of the Low Power Television
broadcasting industry, the continued viability of television
translators, and the continued growth of community based, locally
originated programming.

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advent of new rulemakings and new technologies.' For the purpose of this proposed rulemaking Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry ("NPRM"), WAV TV53 seeks to comment on the adverse effects of the policies set forth in this NPRM on low power television. These effects are a result of the Commission's decision to exclude low power television broadcasters from this important rulemaking and thus continue to maintain the LPTV's industry secondary status in television broadcasting.

Throughout the creation of the diversity policies for television broadcast service, the Commission adhered to the principle that diversification better serves the needs of the public at large. The Commission firmly stated that the vitality of the U.S. system of broadcasting depended largely on a diversified ownership and, hence, diversification of programming and service content.

The low power television' medium is a niche broadcasting service with the potential to provide specialized programming to specialized markets, particularly underserved and ethnic communities. According to industry experts, approximately 42% of LPTV stations provide the public with programming for special demographic populations, reflecting fulfillment of the Commission's initial goal when establishing LPTV service in 1983. Moreover, LPTV stations on the air in the U.S. now number more than 1751

² The U.S. Congress enacted these policies into law when it adopted

³ Report and Order, March 4, 1982

stations.' The present LPTV figure comprises 1193 UHF and 558 VHF stations, compared to the nation's full power commercial and educational stations which now number approximately 1,542 stations.'

Despite the growth in ownership in the LPTV industry and the fact that LPTV broadcasters have made great efforts in the last decade to acquaint the various Commissioners with the unique and diverse services that LPTV provides to the public and record the successes that the LPTV industry has achieved with the Commission's stated goals of providing universal, over-the-air television service, the Commission's Fourth Notice of Proposed Rulemaking and Third Notice of Inquiry has excluded low power broadcasters from any consideration in the transition plan and the proposed statement of proposed ATV policies.

WAV TV53 is clear about the increased range of new service capabilities that digital technology will bring to television, as well as the capability to deliver multiple program streams over one 6 MHz channel that the conversion to digital will bring. But WAV TV53 reasons for these promised new services justify not including this segment of the television broadcasting industry in this ATV rulemaking. The Commission has stated that its initial reason for exclusion LPTV to be that the broader public interest would be best served by limiting initial channel allocation to existing eligible broadcasters, but are not over 800 licensed LPTV entrepreneurs broadcasters? Broadcasting is exclusively and exactly what we do.

'Part 74 CFR and Report and Order, 1982.

' Enter source.

In compliance with the Commission's principles of diversification of ownership, and universal service' and the U.S. Constitution, any technical standards used to develop an allotment table should be readily and equally available to all broadcasters and the diverse audiences they serve, not just full power broadcasters. To exclude LPTV broadcasters from the ATV proceeding is to say that the Commission does not believe in its long stated standard that the public interest of all Americans would be served if all Americans could participate in the continued reception of television.

II. POTENTIAL IMPACT ON THE COMMISSION'S OBJECTIVE OF PROMOTING DIVERSITY OF VIEWPOINTS IN A DIGITAL WORLD.

The Commission should continue to value localism in an era of mergers. LPTV is one of the few remaining services that focuses on local content. It is the local programming of that low power television broadcasters that bring services and programming to the underserved and ethnic communities throughout the U.S. Furthermore, part of the Commission's goals in inaugurating LPTV service were to bring local programming to communities that had never been served or had been underserved by full power television. Equally as important, was the desire to increase diversity in ownership in television broadcasting among women and minorities, since entrant of minorities in full power television is lower than that of LPTV due to the lack of access to capital by minorities. Currently there are 31 full power TV stations owned by minorities versus 124 LPTV stations owned by minorities.

' Sixth Report and Order (1952) Get correct source.

III. POTENTIAL IMPACT OF SPECTRUM RECOVERY AND CREATION OF
CONTIGUOUS BLOCKS OF SPECTRUM ON LOW POWER TELEVISION BROADCASTERS.

With respect to the recovery of spectrum, in the Second Report/Further Notice, the Commission put broadcasters on notice that when ATV becomes the prevalent medium, broadcasters would be required to surrender a 6 MHz channel and cease broadcasting in NTSC.⁷ Later, in the Third Report/Further Notice, the Commission stated its plan to award broadcasters interim use of an additional 6 MHz channel to permit a smooth, efficient transition to an improved technology with as much certainty and as little inconvenience to the public and the industry as possible.

It is evident that the Commission remains committed to the recovery of spectrum to full power broadcasters, yet it not evident that the Commission remains committed to ownership rights of LPTV broadcasters with the advent of digital technology, with the possibility of eliminating a vast number of existing LPTV licensees.

⁷ Second Report/Further Notice, *supra* at 3353.

Furthermore, the Communications Act of 1934 mandates that the Commission allocates spectrum in a manner which is, among other things, efficient. 47 U.S.C. Section 307 (b). And as stated by Chairman Reed Hundt in his speech at the Pittsburgh Law School, the Commission ought to apply the public interest standard, with concrete duties imposed on broadcasters.

IV. POTENTIAL IMPACT OF THE EXCLUSION OF LPTV BROADCASTERS ON EFFECTS OF ATV TRANSITION TO SMALL MARKET BROADCASTERS

LPTV stations should not be displaced only when an alternative is not available. Adequate notice of any proposed allotment table should be given, along with disclosure of all technical standards so LPTV broadcasters may recommend changes in individual allotments that will minimize any adverse impact upon them..

V. HOW THE COMMISSION CAN ACCOMMODATE LPTV BROADCAST STATIONS IN THE TRANSITION TO DIGITAL TELEVISION

LPTV stations should be given an opportunity to apply for remaining ATV spectrum after full power stations have applied for ATV spectrum, before the general public. Furthermore, any spectrum repackaging or recapture should consider perhaps establishing a guard band between full power TV and non-broadcast services and therefore taking LPTV broadcasters into account.

WAV TV53 supports the comments which oppose the Commission's exclusion of LPTV as primary licensees in the new ATV service. WAV TV53 firmly believes that this action by the Commission is a violation of the Constitutional rights of the LPTV broadcasters.

Wherefore, for the foregoing reasons, WAV TV53, et al respectfully submits that the Commission should revise its proposals in its Fourth Further Notice of Proposed Rulemaking and Third Notice of Inquiry to insure a more spectrally efficient ATV allotment table and to accommodate low power television broadcasters with an ATV simulcast channel.

Respectfully submitted,

INDIANAPOLIS, IN

By: _____
Bill Mays

ner Barry Baker, president, River City Broadcasting, supports the project. "If you look at the new talk shows, you have to be underwhelmed by the rat-

ings performance," he says. "The trade ads for these new shows are bragging about ratings between a 1.5 and 2.5, and that is a sorry state of affairs."

Foxlab's Dan Weaver is executive producer. His credits include *John & Leeza*, *Geraldo*, *Donahue*, *Home Show* and *Hour Magazine*.

Nielsen to measure LPTVs

Network One reaches agreement for new rating system

By Steve Coe

Low-power stations are taking another step toward parity with full-power stations with the decision by Nielsen to adopt a new system for measuring the performance of LPTVs.

An agreement was reached last week between Nielsen and Network One, a low-power-station network comprising 42 affiliates.

The new measurement system is designed to give LPTV stations more accurate audience research in hopes the data will attract major advertisers to Network One. The modified ratings service will be in place in time to measure Network One stations' performance during the November sweeps.

For Nielsen, the benefit is attracting possibly 400 new clients to its service, the number of commercial, for-profit low-power stations.

"Network One is primarily concerned with attracting national and primary regional advertisers," says Chandos Mahon, executive vice president, Network One. "The more mainstream, blue-chip advertisers have not been able to advertise with us in the past because there wasn't the research available for them to show to justify to their clients."

Under the existing system, Nielsen measures viewership across an entire Designated Market Area (DMA). However, because many LPTVs cover only a portion of a DMA, their numbers may or may not show up on



Chandos Mahon

Nielsen reports. Under the agreement, Nielsen will begin monitoring LPTV performance in the areas within the DMA that they cover. Nielsen will use both diaries and metered systems to measure the stations.

Of the more than 1,700 low-power stations now operating, only about 400

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PBS/'Reader's Digest' pact

PBS and *Reader's Digest* have created a five-year, \$75 million alliance to produce programs and spin-off products such as home videos and CD-ROMs. No word on specific projects, but programs will focus on such topics as children, family, lifestyle and education and will adhere to "PBS's customary editorial, programing and quality standards," the parties said in a joint statement. *Reader's Digest* will produce the television shows that are developed and will provide worldwide distribution of home videos, books, CD-ROMs and other multimedia products spun off from the TV shows that are created by the alliance; PBS will handle worldwide television distribution and domestic home video distribution. —SM

are commercial for-profit stations, which operate similar to full-power stations. "It's that 400 we're targeting with the Nielsen research," says John Kompas, president, K-B Limited, a consulting and marketing firm that specializes in low-power stations.

The company is supplying much of the geographical mapping that identifies the boundaries of low-power stations. In addition, K-B Limited will

provide specific demographic information about the viewers within those areas, including income, age, gender, education and occupation.

Mahon says that the need for a more organized and accurate measurement system for low-power stations was evident when the network was formed in December 1993. "We saw that there was great potential for advertising sales, but as a whole, low-power sta-

tions were disorganized. We had to get to critical mass and begin doing qualitative and quantitative research to prove what we have. We started conversations with K-B Limited in 1994 and knew we had to work with Nielsen on geographic boundaries. The problem in the past was that low-power stations weren't organized, and the Nielsen process didn't have geographical capabilities," he said.

According to Mahon, Network One has made a "six-figure investment" in bringing about a more accurate measurement system including a "substantial payment" to Nielsen. The network's affiliate lineup consists mainly of larger-market stations, says Mahon, "because those are the most important to advertisers."

Kompas says K-B Limited's mapping of low-power stations has been completed on roughly 100 of 400 commercial LPTV stations that will be able to begin receiving the Nielsen information. ■

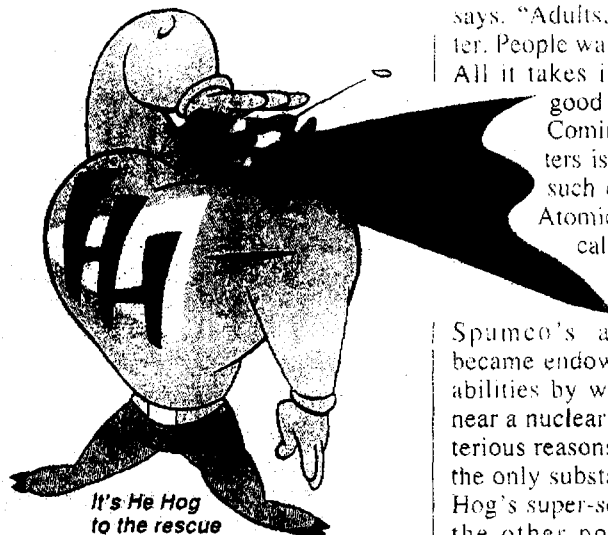
Brik? Liquor? He Hog? It's Spumco

Ren & Stimpy animator has three new projects on drawing board

By Cynthia Littleton

Spumco, the animation studio that brought us *The Ren & Stimpy Show*, is poised to take advantage of the growing market for high-quality cartoons with three new series.

Spumco's founder and president, John Kriekfalusi, has a simple philosophy when it comes to creating hit shows and endearing characters like the high-strung chihuahua Ren and his faithful kitty sidekick Stimpy: "Give the people what they want," he



says. "Adults, kids—it doesn't matter. People watch cartoons for laughs. All it takes is cool characters and good stories."

Coming up with cool characters is Kriekfalusi's forte. One such creation is *He Hog the Atomic Pig*, which Kriekfalusi calls a "throwback to old-style superheroes."

As envisioned by Spumco's animators, *He Hog* became endowed with super-porcine abilities by wallowing in a mud pit near a nuclear power plant. For mysterious reasons, orange marmalade is the only substance that can block *He Hog's* super-sensitive taste buds and the other powers he uses to aid

'Boy Meets World' meets syndication

Buena Vista Television says the off-network sales campaign for ABC's hit T.G.I.F. sitcom *Boy Meets World*, slated to bow in syndication in fall 1997, will get under way at the end of the month. The sitcom, produced by Disney's Touchstone Television, will be offered for cash plus barter.

"*Boy Meets World* is the most watched series within the T.G.I.F. lineup," says Janice Marinelli-Mazza, senior vice president of sales for Buena Vista Television. "The series has grown to be the number-one net-

work show with kids and teens, and we expect it to perform equally well in syndication."

Now in its third season on ABC, *Boy Meets World* stars Ben Savage as a teenager coming to grips with all that adolescence and high school have to offer. A recent study by station rep firm Petry found that 44% of the audience for *Boy Meets World* during last May's sweeps fell into the 2-17 demographic, while women 18-34 accounted for 14% of the viewership and another 8% were men 18-34. —CL